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In re Application of:
Weiss et al.
Serial No.: 09/743,818
Filed: April 26, 2001
Attorney Docket No.: GHC11USA

DECISION ON PETITION TO
ACCEPT RESPONSE

This is in response to applicants' petition under 37 CFR. § 1.181 to accept entry of the enclosed response filed on April 29, 2004.

Applicants state that on October 27, 2003, applicants forwarded an eight page response, a seventy-two page marked up specification, a sixty-eight page clean specification, a one page fee transmittal, a one page transmittal, a one page petition for extension of time, one check in the amount of \$110.00 and one postcard listing these items. Applicants have also enclosed a copy of the postcard stamped by the USPTO acknowledging receipt of these items on October 27, 2003.

On April 27, 2004, Ms. Palovich, a patent agent authorized to act on behalf of this application, checked the status of this application on PAIR and noted that a Notice of Non-Compliant amendment dated November 13, 2003 had been issued. Prior to April 27, 2004, Applicants had not received a copy of this Notice. Applicants noted that since the Response file on October 27, 2003 was in response to a non-final Office action, extensions of time from the mailing date of the Notice were available under 37 CFR 1.136 (a). Applicants request that the enclosed Response to the outstanding Notice addressing the issues set forth therein be entered as being timely submitted.

Applicants also request that the filing of a petition for extension of time should not be required since the outstanding Notice had not been received by applicants prior to April 27, 2004. Applicants filed a statement in support of the petition under 37 CFR 1.181 on September 7, 2004, wherein it was indicated that the Notice of Non-Compliant amendment was not received and provides, as evidence thereof, a statement of the established procedure for receiving incoming mail where the paper would have been entered if received. Based on the evidence presented, it is concluded that applicants never received the Notice of Non-Compliant amendment.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for consideration of the elected invention on the merits.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

A handwritten signature in black ink, appearing to read "Bruce Kisliuk", with a stylized flourish at the end.

Bruce Kisliuk
Director, Technology Center 1600